

12 CV 02703

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Veronica Herskovic;  
*Plaintiff,*

-v-

BANK OF AMERICA, N.A.;  
*Defendant,*

)  
)  
)  
)  
) Case No. \_\_\_\_\_  
)  
)  
)  
)  
)  
)

TRIAL BY JURY DEMANDED

**COMPLAINT FOR VIOLATIONS OF THE FDCPA**

**JURISDICTION**

1. This court has jurisdiction under 15 U.S.C. § 1692k(d), and 28 U.S.C. § 1331, 15 U.S.C. § 1691 *et seq.* and supplemental jurisdiction the claims pursuant to 28 U.S.C. § 1367.

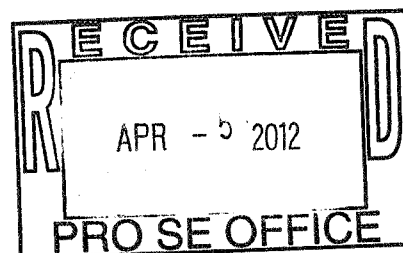
**PARTIES**

2. The Plaintiff in this lawsuit is Veronica Herskovic, (hereinafter "Plaintiff") a natural person, who resides in Orange County, New York and is a consumer as defined by 15 U.S.C. § 1692a(3) (FDCPA).

The Defendant in this lawsuit is BANK OF AMERICA, N.A., (hereinafter "Defendant") an unknown entity with offices at 100 N Tryon St., Charlotte, NC 28255.

**VENUE**

3. The occurrences which give rise to this action occurred in Orange County, New York and Plaintiff resides in Orange County, New York.
4. Venue is proper in the Southern District of New York.



**GENERAL ALLEGATIONS**

5. On or about April 28, 2011 Plaintiff received a letter from Defendant which demanded payment in the amount of \$44,606.19 for a consumer debt as defined by 15 U.S.C. § 1692(a)(5) which had allegedly been consigned, placed, or otherwise transferred to Defendant, for collection.
6. On or about June 1, 2011 Plaintiff sent a demand for **Validation** and dispute in writing to the Defendant, via U.S. Mail Certified Receipt # 9405 5036 9930 0118 9078 94 requesting proper Validation and gave notice to cease and desist once again from any further collection until validation was properly and legally provided, pursuant to the FDCPA § 1692g(B).
7. Plaintiff did not received from Defendant, no general ledger accounting of the alleged account, and no verified statement, that the information was provided by the person who created and maintains the account records at issue and was true, accurate and not misleading.
8. The one and only response that the Plaintiff received from Defendant, stated *"THIS IS AN ATTEMPT TO COLLECT A DEBT, AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR"* in violation of 15 U.S.C. § 1692g(b) when a prior request for **Validation** had been made and not complied with and collection activity was still ongoing.
9. The Defendant, by stating that \$44,606.19 was owed to them violated 15 U.S.C. § 1692e(2) by misrepresenting the amount the alleged debt.

**COUNT I**  
**VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES**  
**ACT (FDCPA) 15 U.S.C. § 1692g BY DEFENDANT**  
**BANK OF AMERICA, N.A.**

10. Paragraphs 1 through 9 are re-alleged as though fully set forth herein.
11. Defendant, is a debt collector within the meaning of the FDCPA § 1692a(6).
12. The response that Plaintiff received from Defendant, after his first request for Validation did not contain **Validation** of the alleged debt but stated that the communication was an attempt to collect a debt in blatant violation of 15 U.S.C. Title 15 § 1692g(b)
13. Defendant, as a debt collector, violated 15 U.S.C. § 1692g(b) by sending a collection notice to Plaintiff when multiple demands for **Validation** and demands to cease and desist from collection activities sent to Defendant, had not been complied with as required under the FDCPA § 1692g(B) .

**COUNT II**  
**VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES**  
**ACT (FDCPA) 15 U.S.C. § 1692e BY DEFENDANT**  
**BANK OF AMERICA, N.A.**

14. Paragraphs 1 through 13 are re-alleged as though fully set forth herein.
15. Defendant sent dunning letters to the Plaintiff on multiple occasions where Defendant stated that \$44,606.19 was due and owing by the Plaintiff and in doing so misrepresented the amount or character of the debt alleged to be owed by the Plaintiff in violation of 15 U.S.C. § 1692e(2).

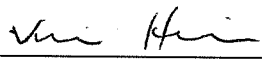
**WHEREFORE**, Plaintiff demands judgment for damages against Defendant BANK OF AMERICA, N.A., for actual damages, 15 U.S.C. §1692k(a)(1); statutory damages, of \$1,000.00 fees and costs, pursuant to 15 U.S.C. §1692k(a)(2); claims pursuant to 28 U.S.C. § 1367.

**DEMAND FOR TRIAL BY JURY**

Plaintiff hereby demands a trial by jury of all issues so triable as a matter of law.

Dated: April 2, 2012

Respectfully Submitted,

By:   
Veronica Herskovic  
337 Schunnemunk Road  
Highland Mills, NY 10930  
[ibzp12@gmail.com](mailto:ibzp12@gmail.com)

Service to:

BANK OF AMERICA, N.A.  
100 N Tryon St.  
Charlotte, NC 28255